allowed to recover to his own use the money he paid (as a consequence of the deceit) * * * and leave his creditors helpless and without remedy."

BANKS AND BANKING—WHO MAY QUESTION THE POWER OF NATIONAL BANKS TO TAKE REAL ESTATE IN TRUST.—Action to set aside a trust deed of real property to a national bank and another deed to other defendants, made by the bank in pursuance of the trust. *Held,* that, although under U. S. Rev. Stat. § 5137, U. S. Comp. Stat. 1901, p. 3460, a national bank has no power to acquire and hold title to real estate in trust, yet the United States alone can object to the lack of power of a national bank to accept a conveyance of realty to be so held. *Kerfoot* v. *Farmers' & Merchants' Bank, First Nat. Bank of Trenton, Missouri, et al.* (1910), 31 Sup. Ct. 14.

This case affirmed the opinion of the Supreme Court of Missouri, in *Hall* v. *F. & M. Bank et al.,* 145 Mo. 418, 46 S. W. 1,000. § 5137 of U. S. Rev. Stat. provides that a national banking association may purchase, hold, and convey real estate for certain specified purposes, "and for no other." Both the Missouri and the U. S. courts held that taking realty to hold in trust is not for one of those specified purposes. Yet it does not follow that the first deed was a nullity and that it failed to convey title to the property to the bank. It is a well settled principle that only the government can complain of an ultra vires holding of realty by a corporation, where the conveyance has been made and the transaction has been fully executed. 8 HARV. L. REV. 15; 8 MICH. L. REV. 407; *Knowles* v. *Northern Tex. Tract. Co.* (Tex. Civ. App.), 121 S. W. 232; *Pere Marquette Railroad Co.* v. *Graham,* 136 Mich. 444; *Leazure* v. *Hillegas,* 7 Serg. & R. (Pa.) 313; *Baird* v. *The Bank of Washington,* 11 id. 411. Several cases are cited as contra in 1 WILGUS, PRIV. CORP. 1019—note e; *State* v. *Hudson Land Co.,* 19 Wash. 85, 52 Pac. 574. The Federal Courts have applied this general principle frequently, but we know of no previous instance where the Supreme Court has had before it a case directly involving the holding of realty by a national bank for a purpose prohibited by § 5137. *Union Nat. Bank* v. *Matthews,* 98 U. S. 621, 25 L. ed. 188, is sometimes cited for a wider proposition than it laid down. It was expressly stated in that case that the holding referred to § 5136 and not to § 5137. § 5136 impliedly prohibits loans on real estate security, but the court followed the general rule that only the U. S. can complain of a violation of that section. The following cases, cited by Justice HUGHES in the principal case, follow the same rule, but do not decide a case under § 5137: *Nat. Bank* v. *Whitney,* 103 U. S. 99, 26 L. Ed. 443; *Swope* v. *Leffingwell,* 105 U. S. 3, 26 L. Ed. 939; *Fritts* v. *Palmer,* 132 U. S. 282, 33 L. Ed. 317, 10 Sup. Ct. 93; *Reynolds* v. *First Nat. Bank,* 112 U. S. 405, 28 L. ed. 733, 5 Sup. Ct. 213, involved § 5137, but, in that case, the land was held by the bank for a purpose permitted by that section, although a dictum was to the same effect as the holding in the principal case. For other cases, see 5 Fed. Stat. Ann. 93. For holdings of State courts, construing §§ 5136 and 5137, see *Wroten's Ass'nee* v. *Armat,* 31 Grat. 228; *Hennessy* v. *City of St. Paul,* 54 Minn. 219, 55 N. W. 1123; *Minn. Threshing Mach. Co.* v. *Jones,* 95 Minn. 127, 103 N. W. 1017.